

Agency Response to the Economic Impact Analysis Submitted by the Department of Planning and Budget

The economic impact analysis prepared by the Department of Planning and Budget (DPB) with respect to 2 VAC 5-585 has been reviewed by the Virginia Department of Agriculture and Consumer Services (VDACS). VDACS believes that the information provided by that economic impact analysis is accurate, but would like to offer the following comments as clarification on specific issues:

Subsection Entitled “Estimated Economic Impact”

On page 3, DPB reports that the information reported in footnote 6 is “according to VDACS.”

However, the information in footnote 6 was actually obtained from the United States Food and Drug Administration (FDA) website at <http://www.cfsan.fda.gov/~ear/fcadopt.html> . Additionally, the statement should actually state “. . . 20 states have adopted the 1999 version and 17 have adopted the 2001 version of the FDA Food Code.”

On page 3, DPB reports that the information reported in footnote 7 is “according to VDACS.”

However, the five major risk factors contributing to foodborne illness were identified by the FDA in its report entitled **Report of the FDA Retail Food Program Database of Foodborne Illness Risk**

Factors, which was published on August 10, 2000, and is available on the FDA website at <http://www.cfsan.fda.gov/~dms/retrsk.html> .

On page 4, DPB reports that the information reported in footnote 8 is “according to VDACS.”

However, the five key public health interventions to protect consumer health from foodborne illness are specifically identified within the FDA Food Code.

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On page 5, first paragraph, DPB reports that the proposed regulation allows for two options for the person in charge at the retail food establishment to demonstrate knowledge of foodborne disease prevention, application of Hazard Analysis Critical Control Point principles and other requirements of the regulation. Those options include complying with this regulation by having no violations during an inspection by VDACS, or by responding correctly to the inspector's questions as they relate to the specific food operation. Actually, the proposed regulation also addresses a third option for the demonstration of knowledge; that option is being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program. "Accredited Program" is defined by the proposed regulation as a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals.

On page 6, first paragraph, third from the last sentence states "According to VDACS, it has been shown scientifically that food safety will be maintained if the required hot-holding temperature is raised to 135° F." To be accurate, this statement should say that ". . . the required hot-holding temperature is . . ." lowered to 135° F, since existing regulations now require a hot-holding temperature of 140° F. Additionally, the decision to lower the hot-holding temperature is based on recommendations to FDA by the 2002 Conference for Food Protection meeting and the National Advisory Committee on Microbiological Criteria for Foods (NACMCF) (See January 2002 NACMCF report at http://www.fsis.usda.gov/Frame/FrameRedirect.asp?main=http://www.fsis.usda.gov/OPHS/NACMCF/2002/rep_hothold1.htm).